

Message

From: Laycock, Kelly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EDF53496C8284A7D8153E0F312818DF1-LAYCOCK, KELLY]
Sent: 11/27/2020 2:38:57 PM
To: McGill, Thomas [Mcgill.Thomas@epa.gov]; Hurl, Kathy [Hurl.Kathy@epa.gov]; Beck, Whitney [beck.whitney@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]; Calli, Rosemary [Calli.Rosemary@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Nagra, Kavita [Nagra.Kavita@epa.gov]; Creswell, Michael [Creswell.Michael@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]
Subject: RE: a question sent to our 404assumption mailbox

Tom,

As far as I'm aware the 10/30/20 letter was the last correspondence from NMFS.

Kelly Laycock
Wetlands Regulatory Section
U.S. Environmental Protection Agency
61 Forsyth St.
Atlanta GA, 30303
phone 404 562 9132

From: McGill, Thomas <Mcgill.Thomas@epa.gov>
Sent: Friday, November 27, 2020 8:37 AM
To: Hurl, Kathy <Hurl.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagra, Kavita <Nagra.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>
Subject: RE: a question sent to our 404assumption mailbox

Thanks Kathy, I agree and below is the edited response I'll send. Regarding your reference to the NMFS comments, did we receive anything from NMFS other than the 9/3/2020 email from David Bernhardt and the 10/30/2020 letter from Virginia Fey?

"Thank you for your inquiry. The EPA is in the process of reviewing comments received, and we intend to post the comments from the public, other federal agencies and Tribal Governments to regulations.gov."

From: Hurl, Kathy <Hurl.Kathy@epa.gov>
Sent: Tuesday, November 24, 2020 3:20 PM
To: McGill, Thomas <Mcgill.Thomas@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagra, Kavita <Nagra.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>
Subject: RE: a question sent to our 404assumption mailbox

*****deliberative*****

LOL, so the only federal agency comments we got "timely" are NMFS. I'd delete "all" and replace with "the" and delete "timely". My experience with the Docket is they upload all comments and label those received after the comment deadline as late. I also think if we are silent on the "timely" we can always defend only posted those received by the comment deadline.

From: McGill, Thomas <McGill.Thomas@epa.gov>
Sent: Tuesday, November 24, 2020 2:40 PM
To: Beck, Whitney <beck.whitney@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: a question sent to our 404assumption mailbox

Thanks for the heads up Whitney. I propose deleting the last part of the message so that it reads as follows:

Ex. 5 Deliberative Process (DP)

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, November 24, 2020 2:25 PM
To: Hicks, Matt <Hicks.Matthew@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: a question sent to our 404assumption mailbox

The only language that tripped me up was the “prior to taking action” bit- we might be so crunched that we’re uploading docs on the same day the decision docs are signed. And in that case, the docs wouldn’t be viewable to the public until a few days later given FDMS changes and docket staff processing times.

Best,
Whitney

From: Hicks, Matt <Hicks.Matthew@epa.gov>
Sent: Tuesday, November 24, 2020 2:23 PM
To: McGill, Thomas <McGill.Thomas@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: RE: a question sent to our 404assumption mailbox

Tom,

Would this include comments from the Tribes sent directly to us as part of NHPA consultation rather than as part of the public comment process?

From: McGill, Thomas <McGill.Thomas@epa.gov>
Sent: Tuesday, November 24, 2020 1:45 PM
To: Laycock, Kelly <Laycock.Kelly@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>
Subject: a question sent to our 404assumption mailbox

I just checked the assumption mailbox, and the only message that may warrant a response is the question we received below. My sense is that we could send a short reply along the lines of the following. If you have any comments or suggestions please let me know:

“Thank you for your inquiry. The EPA is in the process of reviewing comments received, and we intend to post all timely-issued comments from the public, other federal agencies and Tribal Governments to regulations.gov prior to taking action on the State of Florida’s request for assumption of a Clean Water Act Section 404 program.”

From: Rachael Uhland <ruhland@earthjustice.org>
Sent: Thursday, November 19, 2020 5:00 PM
To: 404Assumption-FL <404Assumption-FL@epa.gov>
Subject: Florida 404 Assumption:

Good afternoon:

We would like to inquire on the following question on the comments for Florida’s 404 Assumption.

Will comments from the list below be published on regulations.gov?

- other agencies that were due on November 18, 2020;
- comments from Tribal Nations;
- and other comments received via email.

Thank you.

Rachael Uhland, MPA
pronouns: she/her/hers
Research & Policy Analyst
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Tallahassee, FL 32301
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f: 850.681.0020
earthjustice.org



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